IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

Crl.MC.No. 419 of 2007()

(S.T.NO.318/2003 OF JFCM COURT, PALAKKAD)

PETITIONER/ACCUSED:

P.K.SHERRIF, AGED 49 YEARS,
S/o.P.M.HAMZA, PANIKKAVEETIL HOUSE,
NEDUMBASSERRY AMSOM,
NEDUMBASSERY.P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.NOUSHAD THOTTATHIL
SRI.NOORJI NOUSHAD

RESPONDENTS/COMPLAINANT:

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1. M/S KINETIC FINANCE,
M.G.ROAD, ERNAKULAM,
REPRESENTED BY ITS CHAIRMAN.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.419 of 2007

Dated this the 19th day of February 2007

O R D E R

The petitioner is the accused in a prosecution under Section 138 of the Negotiable Instruments Act. According to the petitioner, the cheque relates to only an amount of Rs.1,578/-. The petitioner was not aware of the proceedings at all. There were other proceedings between the petitioner and the same payee/respondent which were also initiated proceedings under Section 138 of the Negotiable Instruments Act. All those cases have now ended in acquittal. As the petitioner was not aware of the pendency of the present proceedings, a warrant of arrest has been issued against him and steps under Sections 82 and 83 have been initiated.

2. The petitioner wants to appear before the learned Magistrate. The petitioner apprehends that if he appears before the learned Magistrate, his application for bail may not be considered, in accordance with law, on merits and expeditiously. He further wants to file an application to lift the attachment of his property. He apprehends that the said petition may not also be considered expeditiously and in accordance with law.

3. I find no merit in the prayer made. It is for the

petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail as also his application for lifting the attachment to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the learned counsel in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006